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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,836	03/15/2004	William G. Pagan	RPS920040001US1	1523
25299	7590	12/22/2006	EXAMINER	
IBM CORPORATION			REHMAN, MOHAMMED H	
PO BOX 12195				
DEPT YXSA, BLDG 002			ART UNIT	PAPER NUMBER
RESEARCH TRIANGLE PARK, NC 27709			2116	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/22/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/800,836	PAGAN, WILLIAM G.
	Examiner Mohammed H. Rehman	Art Unit 2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-5,9-13,18-21 and 27-35 is/are rejected.
 7) Claim(s) 6-8,14-17 and 22-26 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 15 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 27-35** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter since the claim invention fail to fall within any of the categories of patentable subject matter set forth in § 101.

Claims 27-35 recite, "...data signal and/or carrier wave..."

However, Computer-readable media has been redefined in paragraph [0074] to incorporate non-statutory **signal** elements (e.g. "acoustic or light waves, such as those generated during radio-wave and infra-red data communications...", "...any other optical medium...", "...a carrier wave as described hereinafter, or any other medium from which a computer can read..."). Moreover, it does not appear that the claims with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

In view of the above analysis, it is clear that claims 27-35 recited a data signal and/or carrier wave claims are ineligible for patent protection because it does not fall within statutory classes of § 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-3, 9-11, 18-20 and 27-29 are rejected under 35 U.S.C. 102(e) as being unpatentable by Chou et al. ("Chou") U.S. Patent Application Publication No. 2004/0045011.

Regarding Claim 1, Chou teaches a method for causing an application selected for launching by a user during an operating session of a computer system to be launched during subsequent operating sessions [Para: 0010], wherein the method comprises:

- a) determining that the application has been launched during a portion of the operating session [Para: 0012(8-12)];
- b) determining that the application has been launched a number of times exceeding a launch number criterion during portions of previous operating sessions [Para: 0020(8-12) and Para: 0022(7-17)]; and
- c) writing data to a startup sequence causing the application to be launched by the computer system during the subsequent operating sessions [Para: 0023(4-9)].

Regarding Claims 2,10, 19 and 28, Chou teaches the method of claim 1, additionally comprising, before step c): d) determining that the application has been launched a percentage of times exceeding a launch percentage criterion during the portions of previous operating sessions [Para:0022(7-17)].

Regarding Claims 3, 11, 20 and 29, Chou teaches the method of claim 2, additionally comprising, after steps b) and d) and before step c):

- e) displaying a user interface providing for a user selection indicating that the user wants the application to be launched during the subsequent operating sessions [Para:0022(21-22)], and

f) receiving a selection signal indicating that the user wants the application to be launched during the subsequent operating sessions [Para: 0022(22-23)].

Regarding Claims 9,18 and 27, Chou teaches a computer system comprising a display screen [Para: 0022(21-22)]; data and instruction storage storing a plurality of applications, a startup configuration database [0019(1-8)], and a launch history database [Para: 0020(10)] storing data corresponding to previously launched applications within the plurality of applications; and a microprocessor [0021(1-3)] programmed to perform a method comprising:

- a) reading [Para:0023(4, loading)] data within the startup configuration database;
- b) launching an application within the plurality of applications from data corresponding to the application within the startup configuration database [Para:0019(1-8)];
- c) displaying a first user interface on the display screen providing user selection of an application within the plurality of applications [Para:0022(21-22)];
- d) launching a user-selected application in response to a selection signal indicating user selection of the application [Para:0022(22-23)];
- e) writing data corresponding to the user-selected application to the launch history database [Para:0020(9-12, frequency record)];
- f) determining from data stored within the launch history database that the user-selected application has been launched a number of times exceeding a launch number criterion [Para:0020]; and
- g) writing data to the startup configuration database corresponding to the user-selected application [Para:0012(8-12)].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 9-13, 18-21 and 27-30 are rejected under 35 USC 103(a) as being obvious over Moore et al. ("Moore") U.S. Patent No. 5,835,759 in view of Nakaki et al. ("Nakaki") U.S. Patent Application Publication No. 2002/0122076.

Regarding Claim 1, Moore teaches a method for causing an application selected for launching by a user during an operating session of a computer system to be launched during subsequent operating sessions [Moore, Abstract and col-1(45-58)]. Moore does not disclose expressly

- a) determining that the application has been launched during a portion of the operating session;
- b) determining that the application has been launched a number of times exceeding a launch number criterion during portions of previous operating sessions; and
- c) writing data to a startup sequence causing the application to be launched by the computer system during the subsequent operating sessions.

In the same field of endeavor (e.g. automatic creation and deletion of shortcut icon fields in computer system), Nakaki discloses determining [Nakaki, Para:0036, predefined] that the application has been launched during a portion of the operating session [Nakaki, Para:0036]; determining that the application has been launched a number of times exceeding a launch number criterion during portions of previous operating sessions [Nakika, Para-0036]; writing

data to a startup sequence (it is typically there) causing the application to be launched by the computer system during the subsequent operating sessions [Nakaki, Para:0032, "stores"].

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have incorporated Moore's teachings of selected application launched in subsequent operating session with teachings of Nakaki for the purpose of reducing time for program module to launch and saving valuable memory space occupied by the program module.

Regarding Claims 2, 10 19 and 28, Nakaki teaches the method of claim 1, additionally comprising, before step c): d) determining that the application has been launched a percentage of times exceeding a launch percentage criterion during the portions of previous operating sessions [Nakaki, Para: 0036 (5-12)].

The motivation that was utilized in the combination of Claim 1, super, applies equally as well to Claims 2, 10, 19 and 28.

Regarding Claims 3, 11, 20 and 29, Moore teaches the method of claim 2, additionally comprising, after steps b) and d) and before step c):

e) displaying a user interface providing for a user selection indicating that the user wants the application to be launched during the subsequent operating sessions [Moore, col-5(65) to col-6(3)], and f) receiving a selection signal indicating [Moore, col-5(58-62)] that the user wants the application to be launched during the subsequent operating sessions.

Regarding Claims 4, 12, 21 and 30, Nakaki discloses the method of claim 3, wherein the user interface additionally provides for a user selection indicating that the user wants the application to be removed from consideration to be launched during subsequent operating sessions [Nakaki, Para: 0037], and

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the method additionally includes determining that a blacklist flag has not been set regarding the application during a previous operating session in response to a selection signal indicating that the user wants the application to be removed from consideration to be launched during subsequent operating sessions [Nakaki, Para: 0038].

The motivation that was utilized in the combination of Claim 1, super, applies equally as well to Claims 4,12, 21 and 30.

Regarding Claim 5, is directed to claims 2, 3 and 4. Therefore, the supporting rationale of the rejection to Claims 2, 3 and 4 applies equally as well to Claim 5.

Regarding claim 9, 18 and 27, Moore discloses claim 9 substantially. Moore teaches a computer system comprising a display screen [Moore, col-5(65) to col-6(3)]; data and instruction storage storing a plurality of applications to perform a method comprising:

- a) reading data within the startup configuration database [Moore, col-1(46-58)];
- b) launching an application within the plurality of applications from data corresponding to the application within the startup configuration database [Moore, col-1(46-58)];
- c) displaying a first user interface on the display screen providing user selection of an application within the plurality of applications [Moore, col-5(65) to col-6(3)];
- d) launching a user-selected application in response to a selection signal indicating user selection of the application [Moore, 5(56-62)];

Moore does not disclose expressly wherein a launch history database storing data corresponding to previously launched applications, e) writing data corresponding to the user-selected application to the launch history database; f) determining from data stored within the launch history database that the user-selected application has been launched a number of times

exceeding a launch number criterion; g) writing data to the startup configuration database corresponding to the user-selected application.

In the same field of endeavor (e.g. automatic creation and deletion of shortcut icon fields in computer system), Nakaki discloses wherein a launch history database storing data corresponding to previously launched applications [Nakaki, Para:0036; Fig-2a],

e) writing data corresponding to the user-selected application to the launch history database [Nakaki, Para: 0036];

f) determining from data stored within the launch history database that the user-selected application has been launched a number of times exceeding a launch number criterion [Nakaki, Para: 0036];

g) writing data to the startup configuration database corresponding to the user-selected application [Nakaki, Para: 0030, “Startup folder”].

The motivation that was utilized in the combination of Claim 1, super, applies equally as well to Claim 9, 18 and 27.

Regarding Claim 13, is directed to claims 10, 11 and 12. Therefore, the supporting rationale of the rejection to Claims 10,11 and 12 applies equally as well to Claim 13.

Regarding Claims 18-21 and 27-30, are directed to the program and signal implementing the system of claims 9-12. Therefore, the supporting rationale of the rejection to Claims 9-12 applies equally as well to Claims 18-21 and 27-30.

Allowable subject matter

4. Claims 6-8, 14-17, and 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
regarding claim 6 the prior art of record does not teach wherein the launch percentage criterion is held at a third level in response to determine with a flag whether the user wants to remove the application from being launched during the subsequent operation.

regarding claim 7 the prior art of record does not teach wherein the first and second user selection is used by the user to decide whether he wants to remove an application during subsequent operation and for a second user selection indicating that the user wants applications removed from consideration to be launched during subsequent operating sessions not to be reconsidered for launching during subsequent operating sessions.

regarding claim 8 the prior art of record does not teach wherein the user interface additionally provides for user selections setting the first, second, third, and fourth levels.

regarding claims 14-17 and 22-26 are directed to system and program product implementing the method of claims 6-8.

The prior art made of record and not relied upon is considered pertinent to applicants disclosure includes: The following prior art is from same field of launching computer application.

U.S. Patent(s):

US 6202121 B1

James Edward Walsh et al.

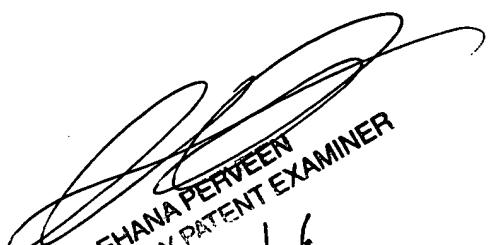
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammed H. Rehman whose telephone number is 571-272-1412. The examiner can normally be reached on 9.00-5.00 (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on 571-272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MR



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SUPERVISORY PATENT EXAMINER
12/20/06